**IN THE MATTER OF YUKON ENERGY
2021 GENERAL RATE APPLICATION**

REPLY ARGUMENT

YUKON ENERGY CORPORATION

October 19, 2021

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OVERVIEW

Final arguments with regard to Yukon Energy's 2021 General Rate Application (GRA or Application) were provided by City of Whitehorse (**CW**), Nathaniel Yee (**NY**), and Utilities Consumers' Group (**UCG**).

Yukon Energy's Reply Argument will address issues raised by the intervenors using the structure of the GRA Application. Failure to address an argument does not constitute agreement with any party's position on that issue.

ARGUMENTS RELATING TO CORE ELEMENTS OF YEC FINAL ARGUMENT

The following are noted regarding intervenor final arguments relating to the core elements of Yukon Energy's Final Argument:

1. **YEC's Rate Strategy**

UCG was the only intervenor that provided comments on Yukon Energy's rate strategy.

UCG's argument is critical of the approach taken by YEC. UCG asserts that:

- The approach adopted by YEC in the Application to minimize bill impacts for the test year is a "'smoke and mirrors' petition";[1]
- "YEC's affordability approach will soon disappear in the new year" due an increase in Rider F and that this "is a shameful example of how our publicly-owned utility continually tries to make itself look good with half-truths [sic] and misdirection."[2]

Yukon Energy Response

UCG's approach and comments on this issue are not helpful to the Board. Yukon Energy has adopted a unique and thoughtful approach to proceed with an application to restore utility financial stability without material impact to customer bills. The rates are approved on an interim basis; as such, the Board retains full authority to adjust these rates after the process is complete and all available evidence is assessed. This authority includes adjustment of the utility true up rider which can absorb any over or under collection of test year revenue requirement. Rider F continues, regardless of the Application, and its application will depend on how fuel prices change (+/-) over time.

2. **Revenue Requirement Cost Increases**

UCG was the only intervenor that provided comments on the issue of rate drivers.

UCG asserts that:

- YEC has "failed to cut costs, both in its operational priorities" and "in managerial constraints", "during the very lean time" of 2019 and 2020 "failed to limit their spending"; and

[1] UCG Argument, paragraph 7.
[2] UCG Argument, paragraph 151.

- "instead of keeping the expenses down to increase their profits they chose Business As Usual".[3] UCG notes "this 50% increase, since the last GRA in 2018, is unprecedented in the YEC history" and although YEC "rationalizes that over half of this increase is recovered through increased sales, this simply ads [sic] to the evidence that they have a poor record of controlling expenses";[4] and
- YEC "has difficulty in their effort to control spending when compared to their comparator utility", and their "gross margin is insufficient at the most and very frail at the least."

UCG's argument concurrently advocates an expanded regulatory regime that would add regulatory delays and costs affecting all parties.[5]

Yukon Energy Response

UCG's assertions are without merit. The evidence of rising costs and inadequate ROE as highlighted by UCG is not in dispute – and if anything highlights the degree to which YEC had ample incentives to control costs where this could be done responsibly.

Despite the inherent difficulty in documenting costs not incurred (i.e., costs "controlled" or "saved", in UCG's terms), YEC provided responses setting out estimates for costs saved[6] – and UCG ignores this evidence in its argument.

YEC in its Application, IRs, opening statement and oral testimony has outlined the material issues facing the utility that are driving revenue requirement cost increases. These issues have nothing to do with the concept of controlling costs as alleged by UCG. Not dealing with these issues will have a significant adverse impact on Yukon Energy's operations and the Yukon grid's ability to continue to meet the needs of ratepayers in a safe and reliable manner.

Yukon Energy must respond to these issues and cannot ignore them. UCG's argument that ignores these real cost drivers provides no credible basis to disallow costs arising from the realities facing YEC.

3. How to treat updates

CW was the only party that provided any material comments on the matter of updates. CW's overall point is that the application should be updated given the updated information provided in IR responses.[7]

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[3] UCG Argument, paragraph 8.

[4] UCG Argument, paragraph 36.

[5] UCG submits that "YUB recommend to the Yukon government that all significant capital projects should be designated by the Yukon government as regulated projects pursuant to Part 3 of the Public Utilities Act (or by equivalent government order for review) so that they can be individually reviewed by the YUB and stakeholders prior to significant investment and construction" (paragraph 32). UCG also submits that "the Board provide some direction on YEC bringing Resource Plans before the regulator, prior to a rate application or the construction/implementation of major projects, to make recommendations to the Minister Responsible" (paragraph 27).

[6] See Exhibit B-25, YUB-YEC-1-43(a) Revised re: Administration costs control examples for 2021, and UCG-YEC-1-5(f) Revised re: O&M and other costs.

[7] CW asserts that "the Board should take note of the updated forecasts and approve costs commensurate with the most accurate and current information available to it at the time of the hearing," and "for the Board to approve costs that it now knows are likely to prove inaccurate and overcompensate YEC would be inappropriate and not commensurate with just and reasonable rates" (paragraph 76). In support of its assertion, CW cites the Board in its decision regarding the

Yukon Energy Response

In response, Yukon Energy re-iterates its key concern that any update to the Application must address all implications of updating a cost item and should only be done where there is adequate information on the record to understand the full impacts of the update to the forecast.

OUT OF SCOPE MATTERS RAISED BY UCG

As in previous GRA's, UCG's final argument once again also includes a wide range of assertions and recommendations that are beyond the scope of the Application, including:

- The Board should "provide clear and specific directions to YEC with regards to the timing of future general rates applications", "with specific penalties if these directions are not followed";[8]
- Performance-based regulation should be considered;[9]
- YEC and AEY should be required to file annual consolidated operating results so that comparisons can be made to the allowed costs of service and revenue recovery;[10]
- That YEC's 2021 revenue requirements once established by the YUB, should be "rolled into existing base rates (without rate riders)" in a compliance filing;[11]
- That YEC has not provided evidence in its application to indicate that the industrial rates actually recover their full cost of service;[12]
- That YEC should be directed to address bill mitigation.[13]

The issues raised by UCG are outside the scope of the current process. Accordingly, Yukon Energy does not address the out-of-scope issues raised by UCG in its main Reply Argument. However, to provide assistance to the Board, comments on each of these issues are provided in Appendix 1 to the Reply Argument.

RESPONSES TO INFORMATION REQUESTS

Both UCG and NY have argued that YEC should have costs disallowed for preparation of revised IRs.

- UCG noted: "it should not be necessary for intervenors to continually submit motions regarding incomplete responses to information requests" and "specific directions from the

2012/13 GRA where YEC was directed to update the industrial load forecast for Minto with more up to date information (paragraph 75).

[8] UCG Argument, paragraphs 4-5, 10.
[9] UCG Argument, paragraphs 31-32.
[10] UCG Argument, paragraphs 4.
[11] UCG Argument, paragraph 11.
[12] UCG Argument, paragraphs 14-15, and 113-124.
[13] UCG Argument, paragraph 30.

YUB are necessary on this issue along with specific repercussions if these directions are not followed".[14]

- NY noted: "YEC should provide correct and complete information in the IR process without the need for multiple motions to find information. Receiving multiple conflicting responses does not give confidence that any of the answers are true and complete. Having to go through multiple requests and motions to get an answer to a question is wasting the time of intervenors and the Board, and adds to the time and costs of the GRA process. To encourage better responses, YEC should not be allowed to claim costs for time preparing revised IRs."[15]

Yukon Energy Response

Regulatory processes over the last decade have become more complex and time consuming with the level of effort required increasing materially, and all parties can have reasonable concerns about the resulting growth in regulatory costs for this relatively small utility jurisdiction.

- The total documentation and evidence in this one-year test year hearing are substantial. YEC was required to respond to two extensive rounds of IRs – a total of 1,120 information requests – in a very short period of time relative to the number of separate IRs and the detailed information requested in some cases. In many cases intervenors are requesting information that is not central to the application, requiring detailed information that is time consuming or not even possible to pull together and/or goes well beyond the test year context for the proceeding, or is outside the scope of a revenue requirement proceeding altogether.
- Further, as has been noted in detail in the Application, in IRs and at the oral hearing – Yukon Energy has limited resources and is dealing with a number of other serious and significant issues at the same time. Mr. Mollard specifically noted in oral testimony regarding GRA proceedings: "They're an extremely tight deadline, and it's an extremely high volume of work. And as we sit today, the company has Jason and I to do these things. So I'm not sure how anybody could expect that the two of us could produce 3300 pages of evidence I think was the Round 1 IR responses in about two months."[16]

Yukon Energy has throughout the process made best efforts to provide responses that adequately respond to the questions posed within the time constraints imposed by the process. However, the level of effort and time required to complete the regulatory process is increasing materially with each GRA. If the YUB desires a higher quality response from applicants, perhaps it would be appropriate in future proceedings to limit the scope of IRs.

[14] UCG Argument, paragraph 6.
[15] NY Argument, paragraph 34.
[16] Transcript page 144.

PART 2: RESPONSE TO KEY ISSUES RAISED

1.0 TAB 2 - SALES AND GENERATION

1.1 SALES FORECAST

Intervenor Arguments

CW

Retail Sales: CW concludes that "in the absence of information demonstrating why weather normalization would not increase accuracy of forecast", and "understanding that YEC has never completed such analysis or even considered the availability of data up until the point of this proceeding" and recommends that YEC be directed for its next GRA "to investigate the use of a simple linear regression to normalize sales and use per customer and to forecast use per customer."[17]

Yukon Energy Reply

CW's argument on retail sales has no impact on the 2021 GRA sales forecast. Yukon Energy responded in its rebuttal evidence (Exhibit B-30, page 4) and in its Argument filed in October 21, 2021 (pages 10-11) regarding CW's recommendation for a Board direction for its next GRA regarding this minor component of YEC's sales forecast. In summary, there is no evidence that the added effort required would provide any value to the overall sales forecast or reduce regulatory burden of a rate application.

UCG

General: Many of UCG's assertions related to general sales forecast issues are either factually incorrect or confusing, including:

- UCG asserts that the current load forecast cannot be properly reviewed and validated until "joint submissions by YEC and AEY regarding 2-, 5-, 10-, and 15- year load forecasts by rate class" are provided.[18]
- With regard to the wholesale sales forecast, UCG incorrectly asserts that "CW-YEC-2-1 to 2-3 demonstrates YEC is lacking on using weather normalization, fails to test or coordinate with ATCO on wholesale sales and Fish Lake hydro production, and has problems accurately forecasting mine sales", and "weather normalization process may have a big impact on the determination of test year sales used in a rate proceeding because electricity service and revenues are weather-dependent."[19]

[17] CW Argument, paragraph 43.
[18] UCG Argument, paragraph 43-44. This appears to be based on a recommendation to the Minister provided by the Board as part of the 2006 Resource Plan review (see YUB Report to Commissioner in Executive Council re YEC 20-Year Resource Plan – Jan. 15/07 at page 5) The recommendation was focused on cost of service and rate design considerations.
[19] UCG Argument, paragraph 42.

- With regard to industrial forecasts, UCG incorrectly asserts that "YEC continues to make the same error of continually applying the sales growth (reduction) rates experienced over the previous time periods rather than utilize the weather-normalized use per customer forecast for this 2021 test year, i.e. receiving higher sales/revenues than forecast."[20]

Secondary Sales: UCG asserts that "Yukon Energy will very likely have a surplus hydro supply late next spring and summer. So, they will have excess energy to sell to secondary customers"[21] and recommends that a deferral account be established for secondary sales revenues so that any revenues collected for the test year benefit ratepayers;[22] and also asks "the Board to set a new rate for these customers in this rate hearing".[23]

Yukon Energy Reply

UCG's assertions with regard to YEC's retail, wholesale and industrial sales forecasts are factually incorrect:

1. There is no basis or precedent in Yukon for requiring joint submissions by YEC and AEY regarding 2-, 5-, 10-, and 15-year load forecasts by rate class for a GRA. The YUB recommendation from the 2006 Resource Plan cited by UCG has had no relevance to subsequent GRAs filed by YEC, and has no relevance for the current 1 year GRA rate application.
2. UCG incorrectly states that YEC wholesale sales are not weather normalized when the record clearly establishes otherwise. YEC uses multiple regression analyses to normalize sales where this makes sense to do so, i.e., for its wholesales forecast, based on the size and importance of these sales within the YIS (~70% of 2021 sales forecast); and in this regard, UCG clearly misstates the information provided in response to CW-YEC-2-1 and CW-YEC-2-2.
3. Contrary to the suggestion of UCG, YEC has worked closely and collaboratively with AEY to develop and refine the wholesale sale forecast. As such, UCG assertions that YEC has "failed to test or coordinate with ATCO on wholesale sales and Fish Lake hydro production" is incorrect.
4. With regard to the industrial sales forecast – Yukon Energy has outlined in response to IRs and in Argument (see page 10) that it does not make sense to weather normalize industrial loads as the "industrial sales class representing about 20% of 2021 sales forecast is primarily process loads that are driven by volumes of materials handled (i.e., ore) as opposed to weather." Further, YEC does not apply "sales growth (reduction) rates experienced over the previous time periods" when forecasting industrial sales. Industrial sales forecasts are based on the latest information provided by each major industrial customer.

[20] UCG Argument, paragraph 134.
[21] UCG Argument, paragraph 141.
[22] UCG Argument, paragraphs 139-41.
[23] UCG Argument, paragraph 140, UCG notes "while all other ratepayers has endured continuous increases in rates through various rate155 [sic] riders for over the past 10 years, Secondary customers have not received the same type of increases. UCG submits it is far past the time that these customers pay their fair share of the revenue requirement."

UCG's comments and recommendation regarding the secondary sales rate are meritless.

They ignore the established mechanism for quarterly adjustment of the secondary sales rate approved in Board Order 2005-12 (as reviewed in section 4.3.1 of the Application). On the matter of establishing a new secondary sales deferral account, there is no precedent or reasonable basis for segregating any such sales by YEC in this manner, and this recommendation should also therefore be denied by the Board.

1.2 GENERATION FORECAST

Intervenor Arguments

UCG

Forecast Models - UCG asserts that it does not have "faith in the forecasting models utilized by Yukon Energy"[24], the YECSIM model is "untested"[25] and unreliable and that short term forecasts should be used for rate setting purposes, and requests that the Board "direct YEC, in a compliance filing, to use the most up-to-date information available to file a short term forecast for one year test year"[26].

Losses - UCG also asserts that there has been no improvement in losses despite capital spending on transmission and requests that "the Board scrutinize the reliability of the YIS since the last 2017-18 GRA and determine if the SAIDI and SAIFI are improving".[27]

Yukon Energy Reply

UCG's assertions and recommendations regarding the generation forecast are incorrect.

- The YECSIM model was thoroughly reviewed during the 2017/18 GRA proceeding. The parties have had a number of opportunities to ask questions and obtain information regarding the model inputs (and how they are used to generate a LTA forecast). During this process Yukon Energy specifically facilitated a workshop where parties could ask questions regarding the model and model inputs. There is simply no basis for UCG continuing to say that the model is untested and unreliable.
- OIC 2021-16 establishes that long-term average annual generation must be used for determining Yukon Energy's renewable generation forecasts. As such, the Board's mandate means that a short-term forecast cannot be used for the 2021 GRA generation forecasts.
- With regard to losses and reliability indicators:

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[24] UCG Argument, paragraph 40.
[25] UCG Argument, paragraph 42.
[26] UCG Argument, paragraph 18.
[27] UCG Argument, paragraph 146. At paragraph 147 UCG asserts, "why YEC has spent multi-millions of dollars in the last several years on upgrading transmission and distribution lines, supposedly giving more voltage benefits, why has this not resulted in increased efficiencies in lowering LL? Since YEC has also spent multi-millions on new and updated substations and transformers, etc., why has this not resulted in lower LL? It appears as if a lot of spending is for not."

- o No material issues have been raised regarding the losses forecast used for the generation forecast, and consequently the forecast generation for 2021 is reasonable and should be accepted.[28]
- o Yukon Energy provided as Appendix 3.1 a KPI Annual Report (2017-2019) as part of the application. The parties have had an opportunity to review and test this reliability indicator information as part of this proceeding.

[28] Review of losses forecast is provided in YEC's Final Argument and in YUB-YEC-1-18.

2.0 TAB 3 REVENUE REQUIREMENT

2.1 NON-FUEL OPERATING AND MAINTENANCE (O&M)

2.1.1 Labour Expense

Intervenor Arguments

UCG

UCG asserts that $6.699 million of administration labour costs should be removed from revenue requirement noting that charging ratepayers for "work employees are already paid to do" … "are a duplication of such costs."[29] UCG also notes that the resource planning costs included under administration labour ($0.473 million in 2021) as well as costs spent on outside consultants in 2020 ($90,000) should be denied.[30]

Yukon Energy Reply

UCG's argument on administration labour costs has no merit and should be dismissed by the Board.

UCG in cross examination (and again in its argument) ignores how labour costs are allocated between capital and O&M (as well as among O&M accounts) for accounting and revenue requirement forecasts. This fundamental lack of understanding of a methodology that is integral to Canadian utility rate setting practice and has not fundamentally changed in decades led UCG to make a number of pejorative statements that are simply incorrect, including assertions at the oral hearing that Yukon Energy is "double dipping".[31]

Despite YEC providing clear responses to UCG in IRs (UCG-YEC-1-29) and in cross-examination to correct UCG's understanding - these assertions are repeated in argument,[32] with UCG recommending that "the Board direct Yukon Energy not to apply in-house costs to capital projects or any other project as these personnel are already being paid a fair wage under their union contract", and "the ratepayer is already paying full costs for staff in the revenue requirement, so they should not be asked to pay for these costs again in rate base."[33]

In Argument, Yukon Energy outlined how costs are allocated between Capital and O&M for the purpose of setting rates:

- Labour O&M expense in each GRA to date reflects the allocation of total labour costs to maintenance versus capital. Maintenance allocation for 2021 is forecast at 82.4% (17.6% allocated to capital). This compares to 83% forecast for 2018 approved and actual

[29] UCG Argument, paragraphs 93-95.
[30] UCG argument, paragraphs 96-99.
[31] Transcript page 249, 275.
[32] UCG argues that "charging for ratepayers work employees are already paid to do, in their union contract or administrators charging for project management or other internal costs, are a duplication of such costs" (paragraph 93).
[33] UCG Argument paragraphs 12-13 and 90-92; and with regard to admin costs paragraphs 93-95.

maintenance allocations of 81.8% to 85.3% in each of the past three years. The response to YUB-YEC-1-39(s) provides historical results (2018-20) that were used to determine the 2021 forecast capital to maintenance ratio allocation.

- Mr. Mollard also noted in cross-examination by UCG: "We describe in Tab 3 Revenue Requirement with respect to labour that, when we set the labour component of revenue requirement, we first divide up what we believe to be the split of labour between capital and O&M, or admin, so it's not double dipping. The number that's in Tab 3 Revenue Requirement is only that component of the labour that is charged to O&M. The capital costs run through the projects and are included in revenue requirement when the project is put in service through Tab 5. So there is no double dipping."[34]

Further discussion on use of internal resources and how consulting costs are cost-effectively used was provided during the oral hearing and Yukon Energy provided additional comment on these matters in its Argument at pages 14-20. Accordingly, UCG's recommendation to deny 2020 resource planning and consultant costs has no relevance to the 2021 GRA forecasts.

2.1.2 Production Expense (Diesel Rentals)

Intervenor Arguments

CW

CW asserts the following:

- "…the record lacks any tangible evidence on how YEC made the determination that it would <u>only</u> rent diesel units after that time [in 2019 when 20 MW diesel plant option eliminated] and continue to do so into the test year."[35]
- YEC never solicited purchase prices for the diesel generation units it was renting, nor did it consider the purchase and resale of diesel generation units. "In the absence of this information, it is difficult to envision how YEC completed a through analysis of its available options."[36]
- With regard to LCOC analysis provided by YEC of permanent diesel options to diesel rentals, CW notes that YEC made certain assumptions when calculating LCOC and "parties have been denied an ability to test the assumptions."[37]
- CW questions whether rental was in fact the only available option in response to the January 2020 cold weather event – "…what YEC has failed to demonstrate is that there was not an option to purchase diesel generation units similar to those being rented. No analysis of this option is available on the record."[38]

[34] Transcript page 249.
[35] CW Argument, paragraph 16.
[36] CW Argument, paragraph 18.
[37] CW Argument, paragraph 21.
[38] CW Argument, paragraph 23.

- CW raises a concern about the inclusion of forecast rental costs for the Faro location that have not been subject to a competitive process.[39]
- CW asserts that it is not up to the City to submit evidence definitively substantiating another option for electricity generation stating that the onus is on the utility and "YEC has failed to provide concrete evidence on the record of this proceeding that demonstrates it completed a thorough analysis of available options to address its identified N-1 dependable capacity shortfall for 2021." While YEC provided evidence that the 20 MW option was not feasible and has provided "simplistic LCOC information related to a possible 12.5 MW option", CW asserts that YEC "has failed to demonstrate that it considered options beyond those two plants in any tangible way."[40]
- CW agrees with Mr. Bell's recommendation, based on his view that YEC has failed to provide adequate business case evidence, that the costs of diesel rental not be allowed in the revenue requirement, and further notes that if the Board determines that denying YEC any of its forecast costs is too onerous, "…the Board still has wide discretion to disallow a portion of those costs on the basis that YEC has failed to meet its onus with respect to the same. In the City's view, a denial of costs would send a clear message to YEC that preparing business cases for major projects such as this is a worthwhile and necessary exercise."[41]

NY

in relation to this issue, Mr. Yee recommends that the Board not include the rental costs in rates "as YEC did not go through the required permitting and YESAB processes….there is no assurance that these expenditures will ever be authorized to provide service to the public."[42]

Mr. Yee asserts the following in support of his recommendation:

- YEC should not be allowed to include generators that have not been through any sort of permitting process as part of the rate base or in N-1 calculations.[43]
- YEC was not given authority by the regulator to connect more than three of the rental diesels at Faro, even for N-1 emergency back-up purposes, and the other three rental diesel units [plus the spare unit] should therefore not be allowed in N-1 calculations. Further, Section 49 of YESAA "…has no application to the undertaking of a project in preparation for a potential emergency".[44]
- YEC has not received any authorization for any diesel rental units at Whitehorse beyond the six units authorized for emergency use until March 31, 2022 – and therefore only 6 of the 10 rental diesels should be allowed in N-1 calculation. Further, Part 3 of YEC's air emissions permit only references five diesel generators being authorized for non-

[39] CW Argument, paragraph 25.
[40] CW Argument, paragraphs 26, 27 and 28.
[41] CW Argument, paragraph 32.
[42] NY Argument, paragraph 28.
[43] NY Argument, paragraph 29.
[44] NY Argument, paragraphs 5-14.

emergency use, and "…does not give any indication that it is suggesting a 14 MW cap using any other means than the specific five generators." Finally, Mr. Yee notes that Part 9 of the air emissions permit is specific in the usage of six rentals of a specified capacity only in the event of an N-1 event, and "…YEC has been in violation of the air emissions permit every time the rentals have been run other than as specified, *for short period to confirm operational readiness*."[45]

Yukon Energy Reply

In response to both CW and NY arguments the following context is noted:

- No intervenor has disputed the N-1 dependable capacity shortfall for 2021 (per page 2-15 of the Application) requiring 25.75 MW of added thermal generating capacity beyond the permanent dependable generating capacity on the Yukon Integrated System (YIS).
- YEC's Final Argument (section 2.2.2) reviewed:
    - YEC's ongoing work to address the N-1 dependable capacity shortfall since it was first identified in spring 2017;
    - The evidence confirming that rented diesel units are the only feasible option for Yukon Energy to address the dependable capacity gap for the 2021 test year; and
    - The evidence confirming that this situation exists for 2021 notwithstanding YEC's ongoing diligent pursuit of a wide range of new permanent solution options to address the dependable capacity gap.
- The first four rented diesels were connected at Whitehorse in winter 2017/18, increasing to six rental units in winter 2018/19 and nine units in winter 2019/20 – and after the January 2020 cold weather event, YEC acted as quickly as possible to install six diesel rental units (plus a spare) at Faro plus a spare unit at Whitehorse for winter 2020/21, resulting in 17 installed diesel rental units for the 2021 test year with capability for emergency use of up to 15 of these units (27 MW) being required to resolve the 2021 N-1 dependable capacity shortfall.
- Yukon Energy's timely rental of these diesel units was essential and necessary to fulfill its obligation to take all reasonable means to connect each winter sufficient dependable capacity to keep the lights, electric heating, and other YIS customer activities operating during an extended cold weather event under N-1 emergency conditions, i.e., without access to the 37 MW at the Aishihik Generating Station.

Reply -- CW

CW's assertion that YEC failed to provide adequate justification for the 2021 diesel rental costs ignores the evidence on the record. Further, CW's recommendation to disallow some (let alone all) of the 2021 diesel rental costs to "send a clear message" should be rejected by the Board.

[45] NY Argument, paragraphs 15-22.

It is abundantly clear that the use of rental units was the only feasible option available to address the 2021 N-1 capacity shortfall. There is no evidence that refutes this fundamental point. YEC's management diligently pursued what was necessary to ensure ratepayers were protected during the winter of 2020/21 from an event that could have catastrophic consequences, i.e., an interruption to service from Aishihik during the coldest part of the winter.

To suggest on behalf of any ratepayer interest including the CW's that management actions in these circumstances were not prudent or appropriate is specious.

Further, YUB-YEC-1-40 confirms the three-year public tender process carried out in 2019/20 to select Finning to supply an initial 9 rental units - and the sound basis for the Finning contract extension to the full 17 units for 2020/21.[46] The "expected life" for the diesel rentals for 2021 is one year under the contract with Finning, i.e., although the contract is for three years, annual renewals are at the discretion of YEC. NY-YEC-1-1 provides the basis for including the spare rental units in addition to the confirmed N-1 shortfall requirement.

In summary, no evidence is on the record to challenge the requirement and competitive basis for the test year rental costs – and there is no need to justify any expenditure beyond one year when addressing the 2021 rental cost. Further, the LCOC analysis provided by Yukon Energy for permanent new diesel options when these become feasible to install confirmed that new diesel options would not have enabled any ratepayer cost savings for 2021.

In relation to CW's assertion that YEC did not consider purchase (or purchase and resale) of the rental units -- the evidence from the senior levels of management is that such a suggestion is not only simplistic and does not take into account the realities of running the system, it also fails to review and consider the practicality of becoming the owner of rental units.

Further, CW's argument ignores Mr. Hall's evidence during the oral hearing (Transcript pages 461-463, as summarized in YEC's Final Argument) that explains in some detail why a purchase/ sale alternative would not be a realistic or practical option that he would ever pursue, including the practical reality of not being able quantify adequately the economic results of purchasing at the front end. No evidence is on the record to dispute Mr. Hall's analysis.

In summary, given the evidence on the record, denial of <u>any</u> YEC 2021 diesel rental costs based on CW's argument would be acting absent any evidentiary foundation of imprudent or unreasonable costs – and would send the wrong message given Yukon Energy's concerted and diligent efforts to provide reliable service for the citizens and businesses of the City (and other YIS communities), in accordance with established service standards.

Reply -- NY

Mr. Yee's recommendation that the Board not include the diesel rental costs in rates, and his assertion that there is no assurance that these expenditures will ever be authorized to provide

[46] As noted in YUB-YEC-1-40, "10 units placed in WRGS under the unit rates per 19/20 RFP; 7 units were placed in Faro through a contract extensions with Finning Canada; unit rates for Faro units were based on market conditions at the time."

service to the public, are without merit. His argument is based on an incorrect interpretation of YEC's permit that is completely at odds with the way in which YEC has operated (and will continue to operate) its facilities under its existing permit, to ensure ratepayers receive the service YEC is obligated to provide including in a N-1 event.

As explained previously in YEC's revised response to NY-YEC-2-3(b) and (e), for the purposes of the *Assessable Activities, Exemptions and Executive Projects Regulations* under *YESAA* ("*YESAA Regulations*"), "productive capacity" refers to the proponent's permitted operational capacity, as opposed to the maximum capacity of all onsite equipment including spare units maintained for back-up purposes.

In that regard, Mr. Yee ignores Yukon Energy's evidence, as summarized in its Final Argument, which confirms based on YEC's experience that YEC does not need a permit to install diesel capacity (including diesel rentals). Its air emissions permit sets the production capacity at the site (not installed capacity), i.e., the actual amount of MW capacity permitted for normal operation. It is not tied to specific installed units.

This is illustrated by YEC's annual reporting to the regulator (i.e. Environment Yukon) under Part 6 of its permit, which requires YEC to report to the regulator "the total annual operating hours for <u>all</u> sources at all sites" including all of its rental diesel units. YEC has transparently reported this data to the regulator every year, to ensure that the regulator is fully aware of the way YEC operates its diesel units, including the diesel rental units both at Whitehorse and Faro, and the regulator has never raised a concern about those operations.

The way YEC has and continues to operate under its permit is also consistent with recent case law relating to the analogous context of interpreting regulations under the BC *Environmental Assessment Act* (*Friends of Davie Bay v. Province of British Columbia*, 2011 BCSC 572, aff'd 2012 BCCA 293).

The regulations in issue in *Friends of Davie Bay* specified that an environmental assessment was required in BC for a mineral quarry project with "a production capacity of ≥ 250 000 tonnes/year". This reference to "production capacity" was interpreted by the applicable BC government agency to refer to the proponent's actual (i.e., permitted and intended) rate of production during operation, and <u>not</u> to the maximum production rate the infrastructure and equipment of a project could potentially sustain. That interpretation of "production capacity" was upheld by both the BCSC and the BCCA.

The same approach clearly applies to interpreting "production capacity" in the *YESAA Regulations*. YEC did not require a further YESAB assessment for the purpose of installing additional diesel rental units at the Faro Generating Station, when YEC had no intention to exceed the maximum total permitted production capacity of 10.6 MW already authorized under its existing permit for normal operations at the site (outside of an emergency situation under s. 49(1) of *YESAA*). In those circumstances, there was no change in the "production capacity" of the Faro Generating Station within the meaning of the *YESAA Regulations*.

It is important to emphasize that there is no dispute that YEC in fact connected 17 rental units at Whitehorse and Faro during winter 2020/21 and for the winter 2021/22, and therefore secured the capability of protecting ratepayers if an N-1 event occurred during these winters. Further, although YEC's permit limits normal operations to a certain MW level, YEC also has the ability under s. 49 of *YESAA* in an N-1 emergency event to operate (beyond its permit limit) any available diesel generating capacity connected to the system as necessary to protect public health and safety. The interpretation advocated by Mr. Yee would interfere with YEC's ability to meet that objective.

Simply put, there would have been no violation of its permit if YEC needed to run its diesels during an N-1 event in the winter of 2020/21. And there is no violation of YEC's permit because it operates the rental units within the permit limits for normal operations. It is the regulator, i.e., Yukon Environment – not YESAB or for that matter this Board – who determines whether YEC is in violation of its permit. There is no evidence on the record that the regulator (Yukon Environment) believes that YEC has been, is now or, as a result of its future planned operations, will be in violation of its permit.

In that regard -- it appears that Mr. Yee's primary interest in raising the permitting issues is related to his desire to have the diesel rental units at Faro removed rather than to have YEC's costs disallowed in this GRA. That objective is more appropriately addressed in another forum, but in any event it is outside the mandate of this Board.

Accordingly, the evidence confirms YEC's capability in 2021 to operate 15 diesel rental units (9 at Whitehorse and 6 at Faro, with spares connected for use if needed) along with other installed units as required to provide the stipulated capacity needed during an N-1 emergency event. Based on this, the Board has no basis to disallow any of the diesel rental costs as recommended by Mr. Yee.

2.1.3 Transmission / Distribution Expense

Intervenor Arguments

CW

CW's argument focused on brushing expense as well as herbicide use.

- CW recommends "that the Board direct YEC adhere to its brushing strategy and not allocate funds away from one function unless there is explicit evidence that such an allocation would not increase the risk of tree strikes. The City supports that recommendation.[47]"
- CW requests the Board provide direction to YEC regarding the use of herbicides, specifically requesting that the Board's Decision confirm that "YEC has committed to not using herbicides anywhere within its service area during the test period and that YEC shall adhere to that commitment unless it consults with applicable stakeholders and satisfies any questions or concerns they may have."[48]

[47] CW Argument paragraph 50.
[48] CW Argument, paragraph 53.

Yukon Energy Reply

CW's argument has no impact on the 2021 GRA forecast costs.

Yukon Energy provided its comments on CW's brushing expense recommendation in its Rebuttal Evidence (at page 5) which notes "YEC is committed to its brushing strategy, subject to ongoing updates as required, in order to address and manage the risks related to tree strikes."

With regard to herbicide use – as noted in CW's argument (paragraph 52), Yukon Energy confirmed its plans and commitments on this matter at the oral hearing.

2.2 RATE BASE DEPRECIATION AND AMORTIZATION

Intervenor Arguments

CW

Hearing Cost Deferral Account: CW's Argument focused on one issue relevant to rate base depreciation and amortization – the inclusion of DSM Appeal costs in the hearing cost reserve. CW submits that the legal expenses related to its DSM appeal should not be approved for recovery from ratepayers,[49] as the costs were incurred "to unsuccessfully overturn that result were incurred by YEC entirely in furtherance of its own interests and provided no benefit to ratepayers".[50] CW also notes the disallowed DSM costs were for projects found to not be "used or required to be used in the provision of service to the public.[51]"

Yukon Energy Reply

Yukon Energy addressed the basis for including the DSM Appeal costs in revenue requirement in oral testimony and in its Argument (see page 26). As noted in YEC's argument "costs incurred by the utility to ensure that decisions that materially impact its revenue requirement are reasonable should be considered prudently incurred costs," regardless of whether the matter was successful in court.

[49] CW Argument, paragraph 72.
[50] CW Argument, paragraph 71.
[51] CW Argument, paragraph 70 argues "…it would have been prudent for YEC to follow the direction provided by the Board in Board Order 2014-06 and seek the approval of the Board before incurring any of the disallowed DSM expenditures" and proceeding "in a manner contrary to that direction, YEC took a risk that it should not be able to download onto utility ratepayers, who had no part in YEC's decision to proceed in that manner."

2.3 RETURN ON RATE BASE

2.3.1 Return On Equity ("ROE")

Intervenor Arguments

UCG

UCG asserts that "reasonable diligence" requires affirmative actions by the regulator to avoid unreasonable risk to ratepayers,[52] and requests "the Board to make firm decisions on what should be utility risk and what should be ratepayer risk. A risk premium for Yukon Energy needs to be reviewed, qualified and quantified."[53] In support of its recommendation, UCG asserts that "YEC is continually shifting more of the risk of its operations to the ratepayer", that YEC's "forecasting of industrial sales shifts the risk profile to firm ratepayers", that YEC "forecasting methods" give "Yukon Energy all the advantage of having all the asymmetrical information and input into their model, without any consultation with ATCO or ratepayers", and that the biggest risk to Yukon Energy as was evidenced in 2019 and 2020 years is "YEC's inability to make management decisions to take control of their expenses."[54]

Yukon Energy Reply

UCG's argument provides no evidence to support its assertions that Yukon Energy's risk premium should be adjusted.

Yukon Energy has outlined the basis for its ROE, including the risk premium provided in its Application, IR responses and at pages 27-30 of its Argument and notes as follows:

1. The basis for determining the ROE for Yukon Energy in 2021 is reviewed in Tab 8 of the Application; and this provides background regarding how ROE has historically been determined for YEC in this jurisdiction (section 8.1); and a summary of the rationale for determining fair ROE for YEC of 8.70% in the test year.[55]
2. The approach and determination of a risk premium for YEC was extensively reviewed and tested by the Board and intervenors during the 2017/18 GRA. There is nothing in evidence in the current proceeding that would change the basis for relying on the risk premium last approved by the Board for YEC in Order 2018-10.
3. The regulatory principles that resulted in the development of the LWRF/DCF, DFPVA and Rider F have been in place since the early 1990's, with ratepayers bearing the thermal generation cost risks related to fuel price and water availability as regards actual YEC loads (through Rider F and LWRF/DCF deferral accounts) -- without any distinction between actual load and last approved forecast load. The ROE for Yukon Energy has

[52] UCG Argument, paragraph 20.
[53] UCG Argument, paragraph 20.
[54] UCG Argument, paragraphs 133-35.
[55] Yukon Energy's Application has relied on the simplified approach for determining the appropriate risk premium for Yukon utilities that has been approved by the Board in 2005 (Order 2005-12) and in 2008 (Order 2009-2 and Order 2009-8).

been established since that time with consideration of these factors, and the fact that other comparator utilities [e.g., FortisBC(Electric)] also do not bear any thermal generation cost risks related to fuel price or water availability.[56]

4. OIC 2021/16 and the proposed Defined Benefits Pension Deferral Account do not provide any reasonable basis to adjust YEC risk profile as regards retention of the 8.70% ROE as approved in Board Order 2018-10.[57]

[56] For further detail see Yukon Energy's Argument, pages 27-31. Page 31 notes, "the 2017-18 proceeding confirmed that no such water-related risk applied to FortisBC(Electric), and that any such added risk being applicable to YEC would require adding to the ROE risk premium for YEC as approved by the Board in Order 2018-10."

[57] OIC 2021/16 directives on the LWRF are consistent with past LWRF/ DCF principles prior to Board Order 2019-08 – and therefore OIC 2021/16 does not change the YEC risk profile relevant to ROE determination for the 2021 GRA.

3.0 CAPITAL PROJECTS

Intervenor Arguments - UCG

UCG provides the only intervenor argument on capital expenditures. Its focus over many pages is on broad assertions of over-spending, imprudent expenditures that should be disallowed, inadequate reporting and business case documentation, and a wide range of other charges and proposed changes. Numerous details are referenced or asserted that in many instances are not correct. No attempt is made to consider the range of relevant evidence.

Specific projects are examined as part of the overall UCG argument, without providing a clear basis for useful assessment and reply that could assist the Board. However, to assist the Board Appendix 2 organizes and distills UCG comments on specific capital projects and provides YEC's response to the issues argued by UCG.

A short-list of UCG's general comments on capital planning process issues raised is provided below and addressed in YEC's subsequent Reply:

1. With regard to capital cost increases, UCG asserts that "the rapid increase in YEC's rate base…has been driven by over-spending on their forecast capital budget"; "this trend is continual since Yukon Energy took over management of its own assets", and "<u>while</u> YEC's capital expenditures have resulted in a forecast 12.3% increase to rate base, the number of firm customers and sales is expected to decrease".[58] UCG also asserts that "Yukon's small ratepayer base cannot be continually held responsible for YEC's poor forecasting and project execution"; "YEC's capital spending habits on a multitude of projects is not sustainable from a ratepayer perspective"; and "YEC must be directed to short-list its capital projects based on what ratepayers can afford rather than always applying to study and implement too many capital initiatives."[59]
2. With regard to inclusion of specific capital project categories in rate base for the 2021 revenue requirement UCG argues:
    a. "…that <u>only</u> new power plant construction or modifications or transmission facilities, that have undertaken a <u>thorough</u> prudence review to determine that all areas of conduct were completed in an economic fashion and are now proven to be 'used and useful' in providing a service to ratepayers, are allowed into rate base"; "All other capital works programs should be placed into a WIP or a deferred account until a proper prudence review can take place."[60]
    b. With respect to deferred capital costs, "…there has been no evidence submitted that Yukon ratepayers have received or will receive any specific benefit from the

[58] See UCG Argument, paragraphs 59, 61 and 62. UCG compares ratebase increases between 2021 and 2018 test years (12.3%) to non-industrial sales changes between forecast 2021 and 2020 (a decline). A meaningful comparison would note that non industrial firm sales increase by 10.8% over the same period used to assess the ratebase increase (2021 compared to 2018 approved), and total firm sales (including industrials) increase by 30.3% over this same period.
[59] See UCG Argument, paragraphs 62 and 64.
[60] UCG Argument, paragraph 22.

costs incurred for the many feasibility projects"; "UCG submits that these costs should remain in WIP until the Board makes a decision on where to place projects that are not yet proven 'used and useful' for service"; "…feasibility studies….that are prudent [should] be placed in a deferred account with a similar return as is paid for by the ratepayer to YEC for their debt or rolled into a related capital asset, but NOT added to rate base."[61]

c. "YEC should not be allowed to add capital cost overruns to rate base unless they can provide clear justification that the cost overruns were prudently incurred given the approved scope of the projects."[62]

d. UCG cites the direction on business cases provided in Order 2013-01[63] and notes that "YEC has fallen short of this direction with respect to capital expenditures that YEC has applied to place into rate base in this test year"… and "these rate base increases have been on-going in the 2019 and 2020 years, without scrutiny."[64]

e. UCG also asserts that "YEC fails to produce clear continuity schedules for each capital project from beginning to end" which makes it difficult to track "accountability/ duplication", "cost overruns", "where contribution funds are specifically allocated", "how total costs compare to original estimates".[65] UCG also criticizes YEC for "changing the names of particular projects and dividing others into several categories."[66]

Yukon Energy Reply

UCG's broad assertions that capital spending is excessive, and should be limited to what ratepayers can afford, fails to address the growing requirements described in the Application and offers no practical guidance to determine what requirements should be ignored.

Further, UCG's recommendations for specific capital project categories ignore well established principles for rate base determinations and propose a level of reporting far beyond what is practical or reasonable for GRA revenue requirement reviews.

1. First, there is no evidence that rate base increases reflect "over-spending" or "poor forecasting and project execution." The response to YUB-YEC-1-48 shows for major projects >$ 1million "the capital cost and timeline forecasts over the past three GRAs were reasonably accurate", and actual major project capital costs across the three GRAs

[61] UCG Argument, paragraph 24 and 25.
[62] UCG Argument, paragraph 26.
[63] Board Order 2013-01, paragraph 313 "the Board directs YEC to provide business cases for all projects, including reliability projects, greater than $1 million. These business cases are to include alternatives to the recommended projects as well as the economic impact to ratepayers of the recommended projects."
[64] UCG Argument, paragraph 65.
[65] UCG Argument, paragraph 74.
[66] UCG Argument, paragraph 76.

reviewed in that response were 100.6% of the capital costs included in the GRA rate base forecasts, i.e., actuals were very close to GRA forecast.[67]

2. Second, assessments of capital projects need to be provided on a project-by-project basis. Yukon Energy has outlined in its Application projects forecast to be completed during or before 2021 that it is seeking to include in rate base for the purpose of the 2021 test year revenue requirement, i.e., costs to be recovered through rates approved by the Board.

   The Board and intervenors have had an opportunity to review the business case for each major project (as provided in Tab 5 of the Application; and as supplemented by IR responses and by oral testimony provided at the hearing). Further, updates for Projects were provided in response to YUB-YEC-1-49 and YUB-YEC-2-17.

   In summary, for projects completed and in service in the 2021 test year, Yukon Energy has demonstrated that the expenditures are prudent and should be included in rate base for recovery through rates.[68]

3. Third, there is no merit for UCG's proposal to change well established practices for how or when deferred costs are included in rate base, including costs for feasibility studies that either result in approved projects or confirm that a project should not proceed.

   UCG, along with other parties, call for proper feasibility and business case studies to confirm capital project selection and prioritization – and costs for this essential work when completed need to be included in rate base in accordance with well established practices.

   With regard to Order 2013-01, YEC provided its response to the specific Board direction in its 2017/18 GRA (Tab 6, page 6-6 and 6-7). Similar to its response in 2017/18 GRA, Yukon Energy notes that business cases for projects greater than $1 million (i.e., "major projects") are provided in Tab 5 of the GRA Application.

   A business case analysis will take on different forms depending on the nature or reason for undertaking the Project (e.g., analysis may differ when the reason for undertaking the project is for reliability or safety purposes versus projects intended to add supply or reduce costs to the system).

   For GRA revenue requirement purposes, a business case analysis is necessary only when a project is being proposed for inclusion in test year rate base. In that regard continuity assessments are not necessarily useful or helpful for GRA review purposes. Further,

[67] The response notes actual results as a percentage of forecast varied by GRA, from 105.7% for the 2008/09 GRA to 98.8% for the 2017/18 GRA. Results are affected by many projects already being completed or largely completed at the time of GRA filing. However, the largest project in the table (Mayo B) was also basically completed within the budget forecast before construction commenced. The spread in actual results as a percentage of forecast for different projects ranges from 70% (Hydro Unit #WH4 Overhaul) to 151% (Mayo Head Gate Repairs).

[68] A GRA addresses a test year rate base for cost recovery through rates approved by the Board. Normal accounting practice will include costs in rate base when an asset comes into service (or is otherwise determined to no longer be eligible to remain in WIP), but absent a GRA proceeding and Board approvals of the rate base changes, such additions to rate base will only affect YEC's return on rate base without any change in rates charged to customers.

projects with costs remaining in WIP are not relevant for test year revenue requirement and rate approvals.

In addition – because cost accounting and reporting for each project has by that time been long established based on the specific features for each project – it is important to note that it is simply not practical during a specific GRA to seek standardization of business case table cost breakouts or reporting for the diverse range of major projects then under review.

4.0 MATTERS THAT DO NOT IMPACT 2021 REVENUE REQUIREMENT AND RATES

4.1 RATE SCHEDULE 39 FIXED CHARGE

Intervenor Arguments

UCG

UCG's argument specifically on the Rate Schedule 39 Fixed Charge at paragraphs 119 to 122 provides assertions without making any specific recommendations.[69] In that regard, UCG asserts that:

- "there is no updated empirical information to determine if the fixed cost recovers an appropriate amount to recover the mines cost of service for transmission;"[70]
- "Yukon Energy refuses to give the amount of energy used by non-industrials on the line from Mayo town to Keno (Mayo not included);"
- "any one in the know realizes that the mines use considerably more than 85% of this particular grid load";[71] and that YEC has "not taken into consideration in their contracted Transmission Facilities Cost that these two mines are short term"; and
- "other ratepayers will continue to pay this [the costs for MMTL facilities, McQuesten Substation and SCC/Statcom] long after these two mines have left."[72]

Yukon Energy Reply

UCG's assertions related to the Rate Schedule 39 Fixed Charge ignore past Board decisions approving the Power Purchase Agreements (PPAs) with the affected mines, and accordingly these assertions are not useful or relevant for the Board's review of this matter.

The basis for the 85% share applied in the Rate Schedule 39 Fixed Charge is reviewed in UCG-YEC-2-10 where it notes that the issue was reviewed in detail during the Alexco mine PPA proceeding and the Victoria Gold PPA proceeding; and in each case YEC reviewed in detail the basis for its approach and the Board provided an Order accepting the approach for each PPA.

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69 UCG's argument on mines revisits its broad assertions in each GRA that insufficient evidence is provided to prove that mines are paying enough to cover their full cost of service (see paragraphs 113-124). This long standing issue is addressed in Appendix 1 of this reply.
70 UCG Argument, paragraph 119.
71 UCG Argument, paragraph 120.
72 UCG Argument, paragraph 122.

4.2 LOW WATER RESERVE FUND (LWRF)

Intervenor Arguments

UCG

UCG's argues that the Low Water Reserve Fund (LWRF) annual report determinations for 2019 should be based on Board Order 2019-08 and not based on OIC 2021-16, and recommends that "$0.715 million [the alleged added 2019 payment to YEC resulting from OIC 2021-16][73] be deducted from the LWRF record".[74]

Without any specific paragraph or page reference UCG also asserts that:

- Board Order 2019-08 directed YEC to file an annual report on the LWRF;
- YEC "was negligent on complying to this direction from the Board"[75];
- "although the OIC speaks about a particular filing date to be under this directive, this must not alter following Board Orders prior to the edict from the YG";[76]
- "the 2019 LWRF year is what is inappropriate for the YEC to make its claim that it filed after the cut off date";[77]
- "this filing was not served to the Board until April of this year and inappropriately uses the OIC direction";[78] and
- None of the reasons provided "were adequate to qualify the YEC for late filing of this report."[79]

Yukon Energy Reply

UCG's argument on the 2019 LWRF filing fails to address the Board's actual rulings, and provides no reasonable basis for asserting that YEC was negligent in filing this report in April 2021.

The alleged directive of Board Order 2019-08 quoted in paragraph 125 of UCG's argument cannot be found in that Order and is in fact a section of the LWRF Term Sheet that YEC filed with the Board in December 2019, i.e., after Board Order 2019-08 was issued in November 2019.

The quoted section provides no firm date for filing an annual report after the end of a calendar year. More importantly, as noted in YEC's 2021 GRA Application (page 3-31) and the LWRF filing in Exhibit B-11 (page 1-1), the Board responded to YEC's December 10, 2019 updated LWRF Term Sheet with a letter on March 19, 2020 with acknowledgment of the documents (as distinct

[73] Undertaking 11 shows the correct amount for the added payment to be $0.738 million, not $0.715 million.
[74] See UCG Argument, paragraphs 125-131.
[75] UCG Argument, paragraph 126.
[76] UCG Argument, paragraph 127.
[77] UCG Argument, paragraph 128.
[78] Ibid.
[79] UCG Argument, paragraph 129.

from any approval) and direction (consistent with directions in Board Order 2019-08) that any future issues regarding the LWRF term sheet are deferred until YEC' s next GRA.

YEC's "next GRA" is the current 2021 Application, filed on November 20, 2020. In this filing, YEC noted the following at page 3-31 of the Application:

> The [LWRF Term Sheet] stabilization mechanism does not affect determination of a GRA forecast revenue requirements, and only pertains to the allocation of thermal generation costs after the year is complete.
>
> ….
>
> Yukon Energy has been required, given COVID-19 conditions and other factors related to minimizing any bill impact on ratepayers, to focus first on completion and filing of its forecast 2021 revenue requirement and rates Application. Yukon Energy is working to complete and file an updated LWRF Term Sheet with the Board as soon as feasible.

OIC 2021-16 establishes the Board's mandate in relation to the LWRF. The LWRF must now comply with the directions as outlined in OIC 2021/16.

The 2019-2020 LWRF Annual Report schedules filed with Exhibit B-11 comply with directions under Section 9 of OIC 2021/16, given that YEC's application was made in the first instance to the Board after November 1, 2020 and that no order has been issued under section 27 of the Act prior to February 11, 2021 with regard to this filing.

Delay from November 20, 2020 to April 8, 2021 in filing the LWRF annual report for 2019 (Exhibit B-11), as required for reasons noted, has no impact on OIC 2021-16 applicability.

In summary, the Board's mandate requires that its determinations on the Exhibit B-11 2019 LWRF report be based on OIC 2021-16, and UCG's recommendation must therefore be denied.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

P. John Landry Q.C.
Counsel for Yukon Energy Corporation

October 19, 2021

APPENDIX 1: OUT OF SCOPE ISSUES

Appendix 1 addresses, for the assistance of the Board, two categories of issues raised in UCG's final argument that are out of scope for the 2021 GRA Application:

- Cost of Service, Rate Design & Regulatory Regime Matters; and
- Proceedings to Review Resource Plans and Part 3 Reviews.

COST OF SERVICE, RATE DESIGN & REGULATORY REGIME MATTERS

UCG's argument raises a number of cost of service (COS), rate design and regulatory regime matters that are outside the scope of the current proceeding and therefore are not relevant to the current Application. In fact they either repeat past UCG submissions that the Board has not accepted or propose new untested performance-based or incentive regulation mechanisms beyond the scope of this proceeding.

Overall, UCG's argument lacks consistency when it on one hand seeks an urgent Phase 2 COS proceeding under the current regulatory regime while at the same time arguing in support of a new non-COS regulatory regime with performance based or incentive mechanisms. Even if UCG's suggestions had relevance to this proceeding -- a cost effective approach would presumably focus on one or the other of these two very different regulatory options.

Each specific matter is addressed and responded to in the discussion that follows.

1. Timing and Nature of Utility Rate Submissions

UCG argues that the Board should "provide clear and specific directions to YEC with regards to the timing of future general rates applications", "with specific penalties if these directions are not followed";[80] and further that YEC and AEY should be required to file annual consolidated operating results so that comparisons can be made to the allowed costs of service and revenue recovery".[81]

Yukon Energy Response

The following is noted in response to these issues raised by UCG:

- The Application was filed and must be assessed in accordance with the Public Utilities Act (the "Act");
- YEC has more than ample incentive not to delay GRA filings (any delays also delay recovery of required costs and result in unsustainable ROEs required to fund the necessary infrastructure to provide the service required under the Act);

[80] UCG Argument, paragraphs 4-5, 10.
[81] UCG Argument, paragraphs 4.

- There is no basis under the Act to penalize either YEC or AEY for the timing of GRA filings, or to require that these submissions must be made jointly by YEC and AEY with inputs from others as suggested by UCG; and
- A revenue requirement application does not require consolidated operating results for YEC and AEY. Such information would only be relevant to a Phase 2 COS and Rate Design Application.

2. Rate rebasing

UCG argues that "once YEC's 2021 revenue requirements are established by the YUB, this should be rolled into existing base rates (without rate rides) in a compliance filing".

It then notes that while "YEC proclaims that this is an onerous task" it is "generally accepted principles in rate making" and "consumers want to see and understand what they are paying for on their bills, not a multitude of rate adjustments and/or various riders".[82]

Yukon Energy Response

YEC has outlined in response to YUB-YEC-1-2 the issues and requirements related to rate rebasing where riders approved to implement approved GRA revenue requirements are incorporated into base rates.

OIC 1995/90 requires that rate revenues for each industrial retail customer class remain unchanged - but rates within each customer class would be restructured in response to an updated cost of service study (COSS) assessment. This option would require the involvement of both utilities, based on a common approved test year revenue requirement for the two utilities and a joint COSS.

Any such proceeding would result in changes to wholesale rates to address revenue allocation between the two utilities in the absence of rate riders, and would remove each utility's direct rate rider revenue access to the other utility's customers, e.g., YEC rate riders apply to all AEY customers in the hydro and diesel rate zones, and AEY rate riders apply to all YEC customers (including major industrial customers where load growth has been material since the last AEY GRA).

It is important to emphasize that this more complex rate rebasing would require a separate joint YEC/ AEY proceeding and therefore could not be implemented through a compliance filing for any decision on the current YEC GRA.

3. Industrial rates relative to costs

UCG argues that, due to the lack of Phase 2 [COS and rate design] review, "YEC has failed to provide ample evidence in this application to indicate that the industrial rates established by the utility and the Yukon government edicts actually recover the full cost of service for that particular rate class."

[82] UCG Argument, paragraph 11.

UCG further asserts "that the utilities' franchise obligations to serve should not carry with it implicit responsibility on the part of ratepayers to subsidize service to industrial customers" and "If the YUB demonstrates firmly in its direction that non-industrial ratepayers should not subsidize industrial customers, then UCG expects that this will force the Yukon government to finally take responsibility for its actions to use it's [sic] arms-length-publicly-owned utility to promote the mining industry."[83]

UCG also asserts that the mine loads are 20.1% of the total load forecast sales while "the mine revenues make up only 15.4% of the total forecast sales of power" and "this alone does not support Yukon Energy's position that the mines are paying their fair share".[84]

Yukon Energy Response

UCG continues to misrepresent the available evidence from prior proceedings when it suggests that industrial customers are paying artificially low rates below COS.

There is no evidence to support this inflammatory assertion - and ample evidence to refute it. And industrial loads do not contribute to the N-1 dependable capacity requirement, the current dependable capacity shortfall, or the requirement for rental diesels.

UCG's assertions also ignore Section 2.1 of OIC 1995/90, which provides clear direction that rebalancing of rate revenues between customer classes (to move rates closer to COS) is not within the Board's mandate – and section 6.(3) of OIC 1995/90 also confirms the priority of this direction with regard to major industrial rates.

Available evidence from past COSS reviews confirms that residential customers (and not industrial customers) are the ones who would face added rate increases if the Board mandate allowed for rebalancing of rates to move customer class rates closer to cost of service.

Finally, UCG's calculation of "the mine revenues make up only 15.4% of the total forecast sales of power" is misleading as it ignores the fact that industrial customers also pay Rider J.[85] UCG calculates the 15.4% by taking industrial base rate revenues before Rider J and divides by total revenue required, including revenues from Rider J.

4. Bill mitigation

UCG argues that "YEC should be directed to not only address bill mitigation for those customers who are striving to keep heat and lights on in their homes or purchase proper food for their family" and that "the Board direct YEC to develop and implement a policy in this regard."[86]

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[83] UCG Argument paragraphs 14-15; see also 113-124 where UCG argues: "there is insufficient evidence provided by Yukon Energy to demonstrate that the mines are paying enough to cover the full costs for providing services"; "the mines are driving the need for more thermal generation in the 2021 test year, including operating reserve and peak shifting, as well as the requirement of rental generators."
[84] UCG Argument, paragraph 114.
[85] And also currently paying AEY's Rider R rider which helps to reduce pressure to non-industrial ratepayers.
[86] UCG Argument, paragraph 30.

Yukon Energy Response

Regarding the request for specific programs for low-income customers, this issue has been addressed by this Board in previous proceedings. Yukon utilities currently have no ability to identify customers according to their income or other means.

Social programs to assist this group are best run by Yukon Government who are better equipped to 1) identify those families in need; and 2) address their financial challenges on a more holistic basis (i.e. utilities, food, shelter, etc.).

5. Performance-based regulation

UCG argues that for future rate applications the YUB "proactively regulate in the public interest, i.e., act progressively and evolve Yukon regulation to a performance-based style as is the mode of rate regulation in nearly all jurisdictions across Canada, as well as has been initiated for many years in the USA and European models of utility regulation."

UCG also requests that the YUB engage "an independent expert to assist in the benchmarking of the cost components of YEC (and AEY) operations to appropriate comparators within North America."[87]

Yukon Energy Response

The matter of performance-based/ incentive regulation (PBR) has been proposed by UCG a number of times without any success in prior proceedings.[88] There is no new information today to suggest that this regulatory regime change merits any consideration as regards Yukon Energy, a Crown utility with its focus on bulk generation supply and transmission.

Further, as noted in Undertaking #10, "Besides Hydro Quebec (which for part of its organization uses performance-based regulation) all other Crown utilities, including BC Hydro, SaskPower, Manitoba Hydro, Newfoundland and Labrador Hydro, Nova Scotia Power Inc., NB Power, Northwest Territories Power Corporation, Qulliq Energy Corporation continue to rely on rate of return regulation and/or cost of service in setting rates."

6. Proceedings to Review Resource Plans & Part 3 Reviews

UCG asserts that "Yukon Energy does not follow normal utility protocol or "principles in other Canadian jurisdictions", where the utility produces an integrated resource planning process before bringing the projects to capital outlay."[89] UCG also states that "it is almost impossible to

[87] UCG Argument, paragraph 31-32.

[88] The response to UCG_YEC-1-5(g) notes "a multi-year performance based regulatory framework is not currently in place in Yukon. Implementing this form of regulation would likely require significant changes to the regulatory framework in the Yukon that have not yet been assessed. Yukon Energy has not assessed measures that the Yukon Government might adopt to bring in legislation or policy related to performance-based regulation."

[89] UCG Argument, paragraph 102.

properly review a Resource Plan and an N-1 practice when there are so many issues in the rate application"[90].

UCG then recommends that the following additional YUB review processes should be implemented:

- "the Board provide some direction on YEC bringing Resource Plans before the regulator, prior to a rate application or the construction/implementation of major projects, to make recommendations to the Minister Responsible".[91]
- "that YUB recommend to the Yukon government that all significant capital projects should be designated by the Yukon government as regulated projects pursuant to Part 3 of the *Public Utilities Act* (or by equivalent government order for review) so that they can be individually reviewed by the YUB and stakeholders prior to significant investment and construction. In the case of large, time sensitive projects, an ongoing audit process should be implemented to ensure project transparency and to provide ongoing approval as the project develops, while allowing the project to proceed without undue delay."[92]

Yukon Energy Reply

UCG's assertion that YEC fails to produce integrated resource planning documents simply ignores the record since YEC's 2006 Resource Plan, with updated resource plans being provided as promised every five years since then (including the recent 10-Year Renewable Electricity Plan provided in the current 2021 GRA proceeding).

In Yukon there is no statutory provision for the Board to approve capital projects of utilities, or to approve the preparation or outcomes of utility resource plans.

The Board's jurisdiction under the PUA is focused on approving utility costs, including capital costs, when they are to be included in rates and are determined to be prudently incurred. A ministerial direction is required for any separate resource plan review by the Board, and an OIC designation (as well as Ministerial direction) is required prior to any Part 3 review by the Board of a specific capital project – and in each case, the Board's responsibility is to provide a report to the Minister.

The record shows the extent to which separate YEC resource plan reviews or YEC Part 3 capital project reviews have been conducted since 2005 (the latest being the BESS Project review concluded in 2021). The evidence also shows that these processes are both time consuming (e.g., aside from what time is needed for the process after an OIC is issued, there is also considerable time needed to secure any OIC) and add materially to overall ratepayer regulatory costs in a small utility jurisdiction where regulatory costs already account for a comparatively high portion of ratepayer bills. In the current GRA proceeding, Yukon Energy has also highlighted the challenges faced in simply bringing forward and then concluding timely GRA filings.

[90] UCG Argument, paragraph 105.
[91] UCG Argument, paragraph 27.
[92] UCG Argument, paragraph 32.

In the context of actual experience over the past 10 to 15 years, the requirements for separate resource plan proceedings and added Part 3 reviews as proposed by UCG does not appear practical or worthwhile – and would add to the regulatory burden and increase costs that would be borne by ratepayers. Adding a separate ongoing audit for large, time sensitive projects would add yet more costs and grounds for delays.

Accordingly, the Board should not adopt UCG's recommendations.

APPENDIX 2: DETAILED COMMENTS ON UCG ARGUMENT RE: CAPITAL AND DEFERRED COST ISSUES

MAJOR CAPITAL & DEFERRED & INTANGIBLE PROJECTS IN RATE BASE

Capital Projects Greater Than $1 Million in Rate Base

Intervenor Arguments- UCG

UCG provided comments in detail on three capital projects > $1 million -- WH4 Overhaul and "WH4 Uprate Projects", Mayo McQuesten Transmission Line (MMTL) and McQuesten Substation, and Diesel Rental Infrastructure at Faro. UCG's issues related to Diesel Rental Infrastructure at Faro are addressed at Section 2.2.2 of this Reply regarding allocation of YEC costs between capital and O&M. UCG's issues on the other two projects are reviewed below.

1. **"WH4 Overhaul[93]"** and "**WH4 Uprate Projects**

UCG notes that "MH4 [sic] Overhaul presents total costs included in rate base at the 2017/18 GRA as $4.291 million while actual spending was only $3.008 million, a difference of $1.283 million".[94] UCG goes on to review the 2017/18 GRA application, related Board Order and compliance filing and notes:

- "The 2017/18 Application of June 2017 proposes on page 5-15 and 16, the cost [of] MH4 as $4.3 million with $0.78 million of this as a contingency".
- The "Board Appendix to Order 2018-10 states at line 421: "*However, the Board notes that Hydro unit #4 overhaul, T&D-breaker replacements that must be updated for actuals and directs YEC to update its 2017 costs to reflect 2017 [actuals] for these projects in its compliance filing to this decision*".
- "In the updated compliance filing, Yukon Energy in Appendix 1.1-3 Supporting Tables list an adjustment of only $0.45 million".'[95]
- "…this indicates that Yukon Energy continued with the claim for contingency costs without giving any explanation of actual work completed for this money."
- "in this 2021 GRA, Yukon Energy is proposing another $1.531 for WH4 Uprate, with another variance of $0.146 million."

Yukon Energy Response

UCG's arguments relating to "WH4 Uprates/Overhaul" are unhelpful to the Board. Not only are they difficult to follow, they took considerable time simply to unravel.

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[93] UCG references "WH4/Uprates/Overhaul" at paragraph 76; at paragraph 77 UCG references "WH4 Overhaul" – it is assumed UCG means WH4 when this occurs. UCG also confuses two separate projects: WH4 overhaul and WH4 Uprate.

[94] UCG Argument, paragraph 79.

[95] The $0.450 million adjustment noted in the 2017/18 compliance filing is for the WH4 Uprate project. The adjustment for the WH4 overhaul was $0.849 million [as noted in Table 1 of the April 9, 2019 response to YUB-YEC-1-7(c) during review of the initial 2017/18 compliance filing] which reflects the variance between 2017 forecast and actual costs.

UCG confuses two separate projects: the WH4 Overhaul included in the 2017/18 GRA forecast rate base (which UCG incorrectly references as "MH4"),[96] and the WH4 Uprate included in WIP in the 2017/18 GRA and in forecast rate base in the 2021 GRA.

As clarified below, UCG provides nothing useful to this proceeding for either project:

- The $0.450 million reduction adjustment noted in the 2017/18 compliance filing (Table 1.1-3) and referenced in UCG's argument relates to the "Whitehorse Hydro Uprate" project, not the WH4 Overhaul. In the 2017/18 GRA application, this uprate project was a deferred cost in WIP for 2018 of $0.450 million (described in Appendix 5.4 of that application). It represented at the time a detailed investigation of which alternative to proceed with and selection of an owner's engineer.
- The September 2017/18 GRA compliance filing notes at page 2-37 regarding the Whitehorse Hydro Uprate: "This project was forecast to remain in WIP during the test years. No costs are included in rate base for the test years in the Compliance Filing."

Accordingly, the Whitehorse Hydro Uprate project was not included in the 2018 approved rate base, nor in rates approved for the 2017/18 GRA. It is, however, in this Application – and is forecast as a major capital project to be included in 2021 rate base at $1.531 million. This cost was updated in YUB-YEC-2-17 at $1.400 million (a reduction of $0.131 million from the Application).

In relation to the WH4 Overhaul, the 2021 GRA reflects the actual cost for the WH4 Overhaul as rate base is based on actual capital costs to the end of 2019. As noted, the $0.450 million adjustment referenced by UCG does not apply to this project

2. Mayo McQuesten Transmission Line (MMTL) and McQuesten Substation

UCG notes at paragraph 80 regarding these projects: "although each of these projects had contributions made to help pay for their construction, there is still net $8.027 million requested to rate base"; and the $5.3 million "YDC contribution amount [for MMTL] should be taken off the rate base account."

UCG also notes at paragraph 81 regarding McQuesten Substation: "Yukon Energy received $10.688 million contribution from VCG Group of the $12.83 million of construction, leaving $0.931 million net (for <u>added facilities</u> to enable future 138 KV service operation <u>if required</u>)" and "UCG submits this net amount be left in a deferral account or WIP until the <u>added facilities</u> become used and useful and a prudency review is realized."

Yukon Energy Response

The MMTL project has been subject to a number of reviews, including the 2017 VGC Group PPA proceeding, the 2017/18 GRA proceeding and the current GRA proceeding.

[96] The page reference provided by UCG to the 2017 GRA Application relates to the WH4 Overhaul.

The 2017/18 GRA Application and the 2021 GRA Application clearly note that the $5.3 million YDC contribution was applied against planning costs required to get the project to a shovel ready stage by Q4 2016 (see Application Page 5-10 and 5-11). In short, this cost is not in the forecast net rate base.

It is unclear where the $12.83 million referenced by UCG in relation to these project costs comes from (i.e., the referenced IR does not cite this figure). That number also does not make sense in the context. For example, the net $0.931 million reflects the reported construction cost of $11.619 million.

The PPA provisions with VGC Group include the $0.931 million net cost for McQuesten Substation in the determination of the Rate Schedule 39 Fixed Charge (as shown in Exhibit B-10). Accordingly, this cost must be included in 2021 test year rate base and UCG's recommendation to retain this cost in WIP should not be accepted by the Board.

Deferred Projects Greater than $1 Million in Rate Base

Intervenor Arguments - UCG

UCG makes the following arguments in relation to costs arising from two Major Deferred Cost Projects: the Aishihik Three Year Licence Renewal; and Demand Side Management (DSM).

1. **Aishihik Three Year Licence Renewal**

UCG asserts "these costs are for two licences for the same facility with overlapping time lines"; "this overlap of the two renewal proposals result in far too much duplication"; "ratepayers must not pay for lack of foresight and management of timelines…the end result was the need for a short term fix, which was costly and now Yukon Energy wants ratepayers to pay."[97]

UCG also says, "that ratepayers must not pay for Yukon Government meddling into what appears to be YEC inability to adequately consult and negotiate with a meaningful stakeholder. These costs must be the responsibility of YDC."[98]

Yukon Energy Response

Contrary to UCG's assertions, the costs referenced for the three year licence renewal are for one specific licence. The costs for the separate longer-term licence renewal remain separate and in WIP for 2021.

As reviewed in YEC's Final Argument, Aishihik Three Year Licence Renewal costs were required to ensure that a renewed licence for the facility was in place while the long term renewal licence is being pursued. The specific costs to obtain that are the costs included in this application.

UCG's assertions as to Yukon Government meddling and inadequate consultation/negotiation are without foundation and simply fail to address the complexities and challenges associated at this time with hydro water licence renewals in Yukon. In these circumstances the fundamental

[97] UCG Argument, paragraph 82.
[98] UCG Argument, paragraph 82.

requirement was to secure a licence renewal (in this case for a 3 year term) to ensure YEC's encumbering rights did not potentially lapse.

Accordingly, UCG's recommendation to disallow or somehow cut back these costs should be rejected by the Board.

2. Demand Side Management (DSM)

UCG asserts "Yukon Energy pursues DSM to the tune of $1.737 million in the 2021 test year"; "it is increasingly difficult to determine exactly what costs YEC is applying to the Pilot and what costs they are applying to other DSM portfolio costs." "As some of the costs are going forward from this OIC for the 2021 test year, these can be applied for in the next GRA as they have not been completed nor implemented."[99]

UCG then argues "that no DSM costs be allowed to the rate base in this 2021 test year."[100]

Yukon Energy Response

Yukon Energy's Final Argument clarifies the updated DSM costs for the 2021 test year. The updated DSM net cost for 2019 is $68,307, and the overall updated DSM net cost for 2019, 2020 and 2021 is $279,852 (versus $1.737 million forecast in the Application).

The evidence, as summarized in YEC's Final Argument, explains the reasons for the cost adjustments, i.e., that program design will be completed in 2021 with program implementation shifted to 2022 and later.

Accordingly, there is no basis for UCG's recommendation that no DSM costs be allowed into rate base for 2021. The Board can and should approve in rate base the updated DSM forecast as provided in YUB-YEC-2-17 (with the revisions noted in oral evidence as summarized in YEC's Final Argument).

Intangibles Projects Greater than $1 Million in Rate Base

Intervenor Arguments - UCG

1. Enterprise Asset Management (EAM)

UCG provides the following argument regarding EAM: "looking at the costs of the total Asset Management Program, Enterprise Asset Management(EAM), costs have now spiraled to nearly $5 Million, which YEC is now applying to recover in rate base charges to their ratepayers. Evidence indicates that the Enterprise system had been on-going through 2012/13 and 2017/18 GRAs with the original forecasted cost of $3.236 million, of which actual cost was only $2.983 million. All while the software and licensing cost of this program was only $0.578 million. UCG submits there is insufficient evidence to prove many of the costs are prudent".[101]

[99] UCG Argument, paragraph 89.
[100] UCG Argument, paragraph 89.
[101] UCG Argument, paragraph 83.

UCG asserts that "vendor selection and project initiation $0.8 million, internal resources $0.462 million, change management $0.114 million and project management $0.340 million …are normal corporate costs that must not be allowed into the rate base."[102]

Further, UCG asserts that "the costs that Yukon Energy outlined for this computerized program option, with the exception of the purchase of the software and licensing ($578,239), is way out of hand and needs to be paid for by their share holder not their ratepayer,"[103] and "Yukon Energy should be directed to make a choice of this very expensive Enterprise system or relying on their 'business as usual cost recovery listed above in this paragraph. Not both."[104]

Yukon Energy Response

Yukon Energy reviewed the basis for the EAM project in the Application and IRs and provided comments in Final Argument (see pages 39-40).

UCG appears to confuse a number of different projects in its Argument.

Enterprise System (JDE) was a separate project forecast to be completed in 2013 in the 2012/13 GRA, and subsequently fully completed by 2017.[105] The final costs for this separate project were reflected in the 2017-18 GRA approved net rate base. This separate project has nothing to do with the Enterprise Asset Management project included in the 2021 GRA.[106]

In addition, UCG's argument is missing appropriate references and it is unclear where some of the cost numbers cited by UCG come from.[107]

Finally, there is no basis provided by UCG for disallowing any of the costs related to vendor selection and project initiation, internal resources, change management, and project management as suggested by UCG.

There is also no basis for suggesting that there is a choice between the Enterprise Asset Management software and something called "business as usual" costs. The costs to implement EAM include prudent allocations of material internal costs to do the work needed to make use of the software – and these costs will provide long-term benefits that justify inclusion in net rate base rather than being expensed.

Accordingly, the EAM costs as proposed should all be included in 2021 test year rate base.

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[102] UCG Argument, paragraph 83.
[103] UCG Argument, paragraph 83.
[104] UCG Argument, paragraph 84.
[105] See YUB-YEC-1-48, Table 1, note 3.
[106] As described in the 2012/13 GRA Tab 5, page 5-19, the project was the replacement of Yukon Energy's current JDE enterprise business system (on which Yukon Energy's financials, inventory management and procurement functions are operating) with an integrated system that includes a computerized maintenance management system (CMMS) module for Operations which is currently operating manually.
[107] See paragraph 84 of UCG argument which has two missing references. It is also not clear where the $5.5 million references for the ERP or the $5 million reference for Information Systems comes from.

OTHER PROJECTS GREATER THAN $100,000 AND LESS THAN $1 MILLION IN RATE BASE

Intervenor Arguments - UCG

1. IPP Implementation

With regard to IPP Standing Offer Program implementation cost of $0.232 million UCG asserts "that since this was a YG plan, then it follows that the implementation was also under their direction, with such cost being paid for by YG or its shareholder YDC."[108]

UCG then asserts that "the other alternative is to have the IPP holders pay these costs as they will be the ones receiving the future benefits of this program. The same principle should hold going forward with the costs for any contracts or sales agreements with IPPs should be payed [sic] by the IPP or the YG is [sic] they so wish to support such programs."[109]

Yukon Energy Response

Given the acknowledged government direction in relation to IPPs (and the need to carry out the required implementation activities) there is no reasonable basis for the Board to exclude the IPP implementation costs from the 2021 rate base.

As noted in response to UCG-YEC-1-49(c) -- while the costs for developing an IPP Standing Offer Program as such are not specifically referenced in OIC 2019/25 – the OIC specifies costs that the Board must allow the utility to recover in relation to electricity purchase agreements related to IPPs which include: (a) the cost of purchasing electricity under an electricity purchase agreement; (b) third party consultant costs, including legal fees, incurred by an electrical utility in relation to the development and implementation of the agreement; and (c) the cost of maintaining or replacing equipment or infrastructure necessary to purchase electricity under the agreement.

The utilities were directed to implement the IPP policy by the Government of Yukon. Implementation of the policy required a number of technical and legal documents to be developed (see response to YUB-YEC-1-95 and UCG-YEC-1-23(c)).[110] These costs were necessary and prudently incurred in order to ensure that the IPP policy can be implemented, and (contrary to UCG's assertions) there is no basis whereby the utilities could recover these required costs from either the Yukon government or the IPPs.

Accordingly, the Board should reject UCG's submissions on this matter.

[108] UCG Argument, paragraph 144.
[109] UCG Argument, paragraph 145.
[110] As noted in Appendix 5.4, page 5.4-2," The Standing Offer Program (SOP) was developed based on the model used in British Columbia and required development of the following key documents: (1) SOP Program Guide; (2) SOP Program Rules); (3) SOP Application Process; (4) SOP Application Form; (5) Interconnection Standards; and (6) Electricity Purchase Agreement Template.

2. Mt. Sumanik Wind Costs

UCG asserts "that going forward, the Mt. Sunanik [sic] discovery costs is one such project which did not result in any concrete used and useful service."[111]

UCG then asserts "it is much more logical to place these type of projects in deferral accounts at a set rate of payment, generally the going investment rate that a utility pays for its' [sic] borrowing. This is far less costly to the consumer than the going rate of return of the utility, which is charged, if placed into rate base."[112]

Yukon Energy Response

The basis for this wind feasibility study is reviewed in Appendix 5.4, pages 5.4-2 and 5.4-3. As noted the study was completed and then decommissioned in 2020 because the need for Yukon Energy to directly conduct such assessments has been eliminated due to the high likelihood that future wind resources will be developed by IPPs.

Longstanding practice from past GRAs is to include completed feasibility studies in rate base when the work is decommissioned if costs are considered to have been prudently incurred - and there is no reason to change that practice. [113].

In summary, there is no basis for placing these project costs into a deferral account now that the decision has been made that this project will no longer be pursued.

DEFERRED COSTS THAT REMAIN IN WIP

Intervenor Arguments - UCG

UCG comments on two deferred cost projects that remain in WIP for the 2021 test year: the Diesel Retirement Replacement Studies, and the Southern Lakes Enhanced Storage Project (SLESP). UCG questions why the diesel retirement study costs are needed, and asserts that many of the SLESP costs are internal costs that must be disapproved.[114]

Yukon Energy Response

Both of the above referenced studies are forecast to remain in WIP in the 2021 test year and YEC is not seeking approval to include these project costs in rate base at this time, nor is YEC seeking any Board approvals related to project costs that remain in WIP at this time.

Accordingly, UCG's assertions on these projects are not relevant for the 2021 test year Application. Prior to including any project costs in rate base at a future proceeding, such costs will be subject to a full prudence review.

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[111] UCG Argument, paragraph 88.
[112] UCG Argument, paragraph 88.
[113] UCG's argument paragraph 88 references past feasibility studies that were also decommissioned with costs well in excess of the Mount Sumanik Wind feasibility study, including Gladstone Hydro Diversion, Waste to Energy/ Biomass/Biogas, and Geothermal.
[114] See UCG Argument, paragraph 85 and 87.